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Letter dated 29 November 2004 from the Permanent Representative of Côte d'Ivoire to the United Nations addressed to the President of the Security Council

The recent developments in Côte d'Ivoire from 4 to 10 November 2004 called for a prompt dissemination of the related facts, constant and close monitoring of the situation as it evolved, restraint while awaiting the outcome of ongoing diplomatic efforts, attending to the wounded and paying silent tribute to the victims.

To date, the last two concerns have been accorded priority and I have the honour to provide herewith the Ivorian Government's version of events and the rational, underlying the initiatives it has taken in that regard.

To fully appreciate the political and military developments in Côte d'Ivoire, it is appropriate to put them in proper context. Such context includes:

- The Ivorian Constitution;
- The Linas-Marcoussis and Accra II and III Agreements;
- The defence and cooperation agreements between France and Côte d'Ivoire;
- The Protocol on Non-Aggression and the Protocol relating to Mutual Assistance on Defence annexed to the treaty establishing the Economic Community of West African States (ECOWAS);
- The agreement between the United Nations and Côte d'Ivoire on the status of the United Nations Operation in Côte d'Ivoire (ONUCI);
- Various Security Council resolutions on the situation in Côte d'Ivoire;
- The agreement between ONUCI and the detachment of French forces in Côte d'Ivoire (Force Licorne) and;
- The Ivorian code of administrative procedure.

Under the Accra III Agreement, "the Ivorian political forces formulated proposals on how to overcome the obstacles that have so far impeded full implementation of the Linas-Marcoussis and Accra II agreements and build consensus on the key issues confronting the Ivorian peace process (paragraph 3)." They "reiterated their commitment to the principles and programme of Government contained in the Linas-Marcoussis and Accra II agreements".

"They also reaffirmed their determination to proceed with the full and unconditional implementation of these Agreements (paragraph 4). They reiterated

their commitment to ensuring the support of their respective members of the National Assembly for the adoption, in accordance with the spirit and letter of the Linas-Marcoussis Agreement, of all legal reforms by the end of August 2004, as stipulated in the Agreement (paragraph 8). The parties commit themselves to the commencement of DDR by 15 October 2004."

"The (DDR) process will be conducted on the basis of a specific timetable, in accordance with the relevant provisions of the Linas-Marcoussis Agreement and the decisions adopted in this regard in Grand Bassam and Yamoussoukro. The DDR process shall include all paramilitary and militia groups. It was also agreed that the restructuring of the defence and security forces should be undertaken in accordance with the road map delineated at Grand Bassam (paragraph 9)."

Furthermore, under the relevant provisions of the Ivorian code of administrative procedure, legislation adopted and published is only applicable if the State, especially through the civil service, judiciary and prisons authority effectively exercises authority throughout the country. In other words, the restoration of such authority is a prerequisite for laws to be equally enforceable for all Ivorian citizens.

State authority is not effective and is yet to become so in the northern part of the country, which is still under the control of the Forces Nouvelles (former rebels) who are still armed. Such control can be possible only after all armed groups, including those of the Forces Nouvelles groups, have been disarmed and demobilized. It is becoming a matter of utmost urgency for the Forces Nouvelles to become a lawfully recognized Ivorian political entity.

With regard to the first paragraph of article 127 of the Ivorian Constitution, it provides that "no amendment proceedings shall be undertaken or pursued while the integrity of the territory is undermined".

Therefore, the Forces Nouvelles armed groups must also be disarmed and demobilized before initiating the constitutional amendment procedures provided for by the Linas-Marcoussis and Accra II and III agreements, since the restoration of territorial integrity is a prerequisite. It is therefore absolutely necessary to complete or at least carry out the key phases of this process before initiating the constitutional amendment proceedings which would complete the proceedings for "all legal reforms envisaged under the Linas-Marcoussis Agreement in accordance with its letter and spirit" and in accordance with the letter and spirit of the Ivorian Constitution.

Furthermore, the prompt disarmament and demobilization of all armed groups would allow them to register in time as political parties and to participate in future elections and allow those of their members who qualify for service in the army and police to be absorbed into the restructured national defence and security forces with full civic rights in accordance with the provisions of the relevant rules and regulations, including the statutes governing such forces.

It was against that clear background that the Security Council issued its call of 27 September 2004 for the prompt and unconditional disarmament of armed groups throughout the national territory.

As a result of the looting of resources in the northern part of the country, the subsequent supply and strengthening of the former rebels' war effort, the illicit regional trafficking in small arms and light weapons and their ammunition, the

increased suffering of people in the northern part of the country, the steady deterioration in the national and subregional economy and subsequent deterioration in the living conditions of the people of West Africa, the shortening of the time for the preparation of the 2005 general elections, the inappropriate dilatory tactics engaged in by most Forces Nouvelles ministers, their declaration on 28 October 2004 in Bamako that disarmament was no longer on the agenda and that the Linas-Marcoussis Agreement was null and void, and the failure of mediation efforts to guarantee sustained continuity of Government activity, force had to be used to bring the rebels back within the authority of the Republic and to the negotiating table in order to meet the timetable for the preparation of the October 2005 general elections.

The military operations undertaken with that sole objective in view were about to succeed when shots, presumably air to ground, whose origin is still unclear, reportedly hit a Licorne force camp in Bouaké, killing, according to the initial French estimates released, eight French soldiers and a United States citizen, and injuring 38 other French soldiers.

The President of the Republic, the Government of national reconciliation and the people of Côte d'Ivoire wish to pay their respects to the deceased, renew their condolences to the bereaved families and wish the injured a speedy recovery.

However, Côte d'Ivoire finds it unfortunate that it was not given the chance to pay tribute to the French soldiers and the presumed United States citizen who died for Côte d'Ivoire, on its soil, or to help to provide first aid to the wounded.

My Government is also concerned that no further mention was made of the United States citizen initially reported among the dead. This changing French account showed, inter alia, that France failed to act deliberately during the events in Bouaké on 6 November 2004 and that there is a need for the United Nations to establish the facts surrounding the accident and the subsequent damage it caused.

Côte d'Ivoire further notes that the pictures published in the French press of the buildings allegedly bombed by the Ivorian defence and security forces are in fact pictures of a Forces Nouvelles military camp.

In a bid to ensure that the truth regarding these facts is told as soon as possible and that those responsible are identified in an unbiased manner, Côte d'Ivoire requests that an international independent inquiry be conducted into that accident.

Without informing or consulting the Ivorian authorities, members of the Licorne force, presumably on the official and direct order of the President of the French Republic, proceeded to destroy both military and civilian aircraft of the Ivorian State, including hacking some of them to pieces. Even the two personal aircraft of the President of the Republic of Côte d'Ivoire, exclusively for civilian use, they too symbols of Ivorian sovereignty, were not spared from the fury of the Licorne troops assigned to execute those reprisals. Those reprisals, reminiscent of times gone by, were carried out with utter disregard for the long standing defence and cooperation agreements signed between France and Côte d'Ivoire, which were still in force. The Licorne forces did not spare even the presidential palaces of Yamoussoukro and Abidjan Plateau, which were attacked with mortar fire and helicopter gunships; a civilian aircraft on the ground and an anti-aircraft battery were destroyed, killing the two people manning the battery.

When the people of Abidjan heard the news about the excessive French action ostensibly carried out in retaliation against Ivorian aircraft, they took to the streets of Abidjan, the economic capital, in protest against such deliberate attacks on the symbols of Ivorian State sovereignty, that France described as legitimate reprisals.

French helicopters fired live ammunition into the crowd gathered at Abidjan airport, the approach to the two bridges and to the camp of the forty-third French marine infantry battalion (BIMA). Events then degenerated into chaos, which France quickly blamed on President Laurent Gbagbo.

The defence and security forces immediately required to maintain law and order in the town were unable to contain the crowd, including preventing looting and other criminal activities by any spontaneous outpouring of a large crowd, all the more since the crowd's ranks were swelled by nearly four thousand common criminals who had surprisingly escaped from Abidjan's main prison (Maison d'arrêt et de correction d'Abidjan, MACA) with the arms and ammunition of the prison guards.

White people, mostly French nationals and certain French interests, unfortunately incurred the wrath of some demonstrators and were the targets of criminal activities.

In a bid ostensibly to protect French and foreign nationals whom they described as being in danger, members of the Licorne force, acting with no cooperation or coordination with the national defence and security forces, opened fire with live ammunition on all gatherings of people in Abidjan, which it characterized as dealing with looters. It killed in cold blood without arresting any alleged criminal. Yet, if the French forces had taken such requisite precautionary police action, instead of carrying out summary executions in our country during those fateful three days, then they could have been said to have acted lawfully in so describing the actions of the demonstrators, allowing the appropriate legal action to be taken. At the time, France said it acted in self-defence, the grounds and justification of which are still unclear and should be determined by an independent international inquiry conducted under United Nations authority.

The French force went as far as to assemble in Abidjan all its armoured combat units deployed in Côte d'Ivoire, which, however, are neither police vehicles nor lawful crowd control equipment. Furthermore, the troops manning them lacked training and expertise in law enforcement.

The Licorne force definitely adopted a counterinsurgency posture, normally taken in emergency circumstances in both France and Côte d'Ivoire under which law enforcement power devolves to the military. By thus substituting itself for the Ivorian State, France exceeded the mandate granted by the Security Council. Here again, an international inquiry is necessary to determine whether that independent operation was consistent with the spirit and letter of the United Nations mandate. However, the excessive autonomy of the Licorne force in Côte d'Ivoire indicates that the time has come to incorporate it immediately into ONUCI and for it be used in accordance with the agreement between the United Nations and Côte d'Ivoire on the status of the United Nations Operation in Côte d'Ivoire (ONUCI).

On Sunday, 7 November 2004, the French soldiers opened fire without any warning on any movement along the corridors along their route from Duékoué, Dibboly and Guessabo in the west and Sinfra and Tiébissou in the centre, killing

nine people, including three soldiers, a policeman and a customs officer, while three civilians and a soldier were reported missing and dozens of people, who are now being identified, were wounded.

The occupation of Abidjan international airport at Port-Bouet by the Licorne force and the eviction by that force of Ivorian airport-based gendarmerie, police and customs units, its sealing off of the Hôtel Ivoire at Cocody and its firing from helicopters of live bullets at demonstrators at the airport and on the de Gaulle and Houphouët-Boigny bridges further incensed demonstrators.

Demonstrators massed at the Hôtel Ivoire and at the entrance to the Head of State's residence less than a kilometre away from that hotel, forming a human shield. Indeed, as it would later transpire, they believed that France intended to remove President Laurent Gbagbo and replace him with Mr. Alassane Ouattara, who had reportedly been brought to the Hôtel Ivoire, access to which was barred by the Licorne force.

Despite President Gbagbo's appeal for calm broadcast over both the radio and television on Sunday, 7 November 2004, and despite the presence of elements of the national defence and security forces deployed to maintain law and order at the Hôtel Ivoire (and here note should be taken of the efforts of the head of the gendarmerie detachment responsible for maintenance of law and order to coordinate matters with the Licorne force), the Licorne force opened fire on demonstrators who were clearly unarmed and respectful of the French operation, killing seven people, including two Ivorian gendarmes involved in maintaining law and order in the area and wounding hundreds of people. Shock and pandemonium reigned in Abidjan and the flow of people to the area of operation of the Licorne force could no longer be contained.

When the French army finally withdrew from the esplanade of the Hôtel Ivoire, following appeals for them to do so from political and religious leaders, order was immediately restored in Abidjan. However, the Licorne force withdrew, blaming the unarmed demonstrators and members of the Ivorian defence forces present at the scene for the shooting, and leaving in their wake 64 dead and more than 1,300 wounded. Furthermore, documents belonging to French sharpshooters were found on the sixth floor of the Hôtel Ivoire.

An international independent inquiry must be conducted in order to clear up the circumstances surrounding the shooting and identify those responsible.

The Licorne force, which was initially called in by the President of Côte d'Ivoire pursuant to the defence and cooperation agreements between France and Côte d'Ivoire, operates in the country solely under a United Nations, ONUCI, mandate. Furthermore, the contradiction between the ONUCI mandate as an interposition force and the duty to provide assistance to the Ivorian State under the defence and cooperation agreement between France and Côte d'Ivoire, also makes it imperative to place the Licorne force under the command of the ONUCI military component. So does the fact that the international legal interposition mandate of the Security Council takes precedence over the defence of the State of Côte d'Ivoire by the Licorne force under the aforementioned agreement between France and Côte d'Ivoire.

Accordingly, the Security Council should review as soon as possible its resolution 1528 (2004) and subsequent resolutions and presidential statements.

United Nations peacekeeping missions are based on the principle that the presence in the mission area of an impartial force reduces tensions between belligerents and creates a framework for negotiations to prosper. My Government urges that the command and actions of the United Nations interposition force in Côte d'Ivoire should be formally unified.

I shall be grateful for any steps which you may see fit to take to have this letter issued as a document of the Security Council.

(*Signed*) Philippe **Djangoné-Bi**
Ambassador
Permanent Representative